

***The Natural Heritage  
Preservation  
Tax Credit Act  
of 2000***

***Program Information and  
Application Package  
Revised  
January 2005***



## ***Executive Summary***

As land and resource protection efforts become more difficult and complex, the challenge becomes one of how to successfully integrate protection and conservation with the growing population and economic needs of our great state.

Through the Natural Heritage Preservation Tax Credit Act of 2000 (Public Resources Code Section 37000 *et seq.*), a tool is available to protect and conserve open space, agricultural lands, water, wildlife habitat, archaeological resources, and state and local parks. Under this program, state tax credits are available to private landowners who donate qualified land (fee title or conservation easement), water or water rights to state resource departments, local government entities and designated nonprofit organizations for conservation purposes.

Designed to complement other resource protection efforts, the Natural Heritage Preservation Tax Credit Program provides an opportunity to private landowners interested in reducing their state tax liability. Coupled with existing land protection and conservation measures, the State of California is rewarding landowner stewardship practices that preserve our natural resources.

The following information has been prepared to familiarize the potential donor and donee with the requirements of the Tax Credit Program, including new requirements that became effective in January 2005. The program was amended by legislation in 2004. The reader is encouraged to disregard any previous material explaining the Tax Credit Program and replace it with this revised Program Information and Application Package.

Interested donors are further encouraged to contact a state department within the Resources Agency or the Wildlife Conservation Board to learn more about contributing qualified property under the Tax Credit Act. Interested donees are encouraged to carefully review the following information and submit an application to the Wildlife Conservation Board at 1807 13<sup>th</sup> Street, Suite 103, Sacramento, California 95814, Phone (916) 445-8448.

***The information in these materials is current as of January 2005. Every effort has been made to ensure that the information presented is accurate and complete, however, it is not a substitute for qualified legal, financial and tax advice. Interested parties are encouraged to obtain independent professional advice of their choosing.***

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## **CHAPTER 1**

### **The Natural Heritage Preservation Tax Credit Act of 2000 (As amended, effective January 2005)**

#### **Introduction**

California's population increases have long been a topic of discussion. By the year 2020, the population of California is projected to increase by a startling 24 percent! Of paramount concern is the question of how the population growth will affect California's rich farmlands, rangelands, open space, wildlife, plant resources, and available parklands.

The business of protecting and conserving California's natural resources is a complex endeavor; however, a common theme emerges when individuals, planners and elected officials convene to discuss land use policies and growth. Specifically, innovation and partnerships are critical.

Capitalizing on the opportunities and benefits that arise from integrating divergent interests and forming public/private partnerships, unique and innovative approaches to the protection and conservation of California's farm and ranch lands, natural resources and local economies have emerged. One such innovative solution is the Natural Heritage Preservation Tax Credit Act of 2000 (Public Resources Code Section 37000 *et seq.*) (the "Tax Credit Act").

This Program Information and Application Package reflects changes to the Natural Heritage Tax Credit Program (the "Tax Credit Program") necessary to implement the amendments to the Tax Credit Act that became effective on January 1, 2005.

The purpose of the Tax Credit Program is to protect wildlife habitat, parks and open space, archaeological resources, agricultural land and water by providing state tax credits for donations of qualified land (fee title or conservation easement) and water rights. The program objectives include the fostering of public/private partnerships to resolve land use and water disputes; assisting habitat stewardship; and demonstrating the state's commitment to protect natural resources by rewarding landowners who perceive habitat as an asset rather than a liability. Initially implemented in 2001, the Tax Credit Program is a successful effort that to date has resulted in the approval of \$48.2 million in tax credits, and the donation and transfer of ownership of more than 7,967 acres of critical parkland, open space, agricultural conservation easements, wildlife corridors and archeological resources.

Responding to increased fiscal demands and pressure upon the General Fund, the Legislature suspended the Tax Credit Program in 2002. However, in recognition of the effectiveness of the program as a tool to leverage limited fiscal resources and protect critical land and water resources, the Tax Credit Act was amended and the Tax Credit Program reinstated effective January 1, 2005. Specifically the Tax Credit Act was amended by Chapter 226, Statutes of 2004 (SB 1100) which allows tax credits to be awarded until June 30, 2008, provided there is no net loss of revenue to the General Fund for tax credits awarded between July 1, 2002 and June 30, 2005. In addition, Chapter 715, Statutes of 2004 (AB 2722) provides a process to reimburse the General Fund for approved tax credits using eligible bond funds.

### **Major Program Changes**

Pursuant to the 2004 Tax Credit Act amendments, the Board may again award tax credits, provided the General Fund is reimbursed for the loss of revenue associated with approved tax credits. A department that accepts a contribution pursuant to the Tax Credit Program, either directly or through a qualified third party, must encumber eligible bond funds prior to acquiring the donated property and ultimately transfer those funds to the Natural Heritage Preservation Tax Credit Reimbursement Account (the “Reimbursement Account”) as the tax credit is claimed. Public Resources Code Section 37032 identifies specific bond act provisions from which monies may be used to reimburse the General Fund.

Consistent with the Tax Credit Act amendments, new certifications are required from donors, donees and departments. The certifications are part of the Application Package included as **Appendix A**, and discussed in Chapter 2. This Program Information and Application Package reflects the new program requirements.

### **Reimbursing the General Fund – Eligible Bond Funds**

To facilitate the reimbursement of the General Fund, Public Resources Code Sections 37034 and 37035 set out the process by which a department or local government may seek Board approval of a donation and (if the Board approves the tax credit), encumber and ultimately transfer funds to the Reimbursement Account.

Reimbursement must be from money that is not from the General Fund. Public Resources Code Section 37032 (c) identifies provisions of Proposition 40 (California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002) and Proposition 50 (Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002), from which a department or local government may expend bond funds to acquire property under the Tax Credit Act.

The bond provisions from which a department or local government may expend bond funds to reimburse the General Fund are as follows:

Proposition 40 (California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002):

- Public Resources Code Section 5096.615 – State Department of Parks and Recreation
- Public Resources Code Section 5096.650 (specified portions) – Wildlife Conservation Board, State Coastal Conservancy, California Tahoe Conservancy, Santa Monica Mountains Conservancy, Coachella Valley Mountains Conservancy, San Joaquin River Conservancy, San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy, Baldwin Hills Conservancy, San Francisco Bay Area Conservancy Program, and Secretary of Resources Agency

Proposition 50 (Water Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002):

- Water Code Section 79541 – Secretary of Resources Agency (River Parkways)
- Water Code Section 79542 – California Tahoe Conservancy (Lake Tahoe Water Quality)
- Water Code Section 79544 – Secretary of Resources Agency (Sierra Nevada – Cascade Mountain Region Water Quality)
- Water Code Section 79550 (e) or (f) – CALFED Bay-Delta Program (Ecosystem Restoration and Watershed Programs)
- Water Code Section 79565 – Wildlife Conservation Board (Regional Water Quality; Fish and Wildlife Habitat)
- Water Code Section 79568 – Wildlife Conservation Board (Colorado River)
- Water Code Section 79570 – State Coastal Conservancy, Santa Monica Mountains Conservancy, San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (Coastal Watershed Protection)
- Water Code Section 79572 – Wildlife Conservation Board (Coastal Wetlands, Upland Areas Adjacent to Coastal Wetlands and Coastal Watershed Lands)

Other bond funds may also be used, if the bond act specifies that its funds may be used for the purposes of the Tax Credit Act.

## Purpose and Authority

While the amended Tax Credit Act requires the General Fund to be reimbursed for approved tax credits, the purpose, intent and project selection criteria of the Tax Credit Program did not change. The Board is authorized to implement the program, and in doing so is authorized to request staff services from any department that submits an application and a proposal for a donation of property to the Board.

Subject to Board approval, a private landowner may donate qualified lands, conservation easements or water rights to Resources Agency departments, the Resources Agency itself, local government entities or designated nonprofit organizations for conservation purposes. A donor that contributes qualified property to an eligible donee pursuant to the Tax Credit Act will receive a state tax credit equal to 55 percent of the appraised fair market value of the donated property, in accordance with Revenue and Taxation Code Sections 17053.30 and 23630. If the donor is a partnership, "S" corporation, or limited liability company treated as a partnership, the fair market value of the contribution is passed through to the partners or shareholders of the donor in accordance with their interest in the entity as of the date of the contribution.

If the approved tax credit exceeds the "net tax," the excess may be carried over to reduce the "net tax" for the next eight years if necessary, until all of the tax credit is exhausted. The tax credit is in lieu of any other state tax credit or deduction that the taxpayer may otherwise claim with respect to the donated property.

Absent further statutory authorization, the Tax Credit Program will remain in effect until June 30, 2008, or until the entire \$100 million in available tax credits has been awarded, whichever comes first. Currently, the requirement to reimburse the General Fund for approved tax credits applies to tax credits awarded between July 1, 2002 and June 30, 2005. However, it is possible that this requirement could be extended.

## Definitions (Public Resources Code Section 37002)

The terms below are defined in the Tax Credit Act and govern the Tax Credit Program.

- **"Approval"** or **"Approval for Acceptance"** means the Board's approval of the granting of a tax credit for a donation of qualified property.
- **"Board"** means the Wildlife Conservation Board.
- **"Conservation Easement"** means a conservation easement, as defined by Civil Code Section 815.1, which is contributed in perpetuity.

- **“Department”** means the California Resources Agency or any state entity within the Resources Agency and authorized to hold title to land.
- **“Designated Nonprofit Organization”** means a nonprofit organization qualified under Internal Revenue Code section 501 (c)(3) that has as a principal purpose the conservation of land and water and *has been designated by a department or local government to accept property in lieu of the department or local government*. The nonprofit organization must have experience in land conservation.
- **“Donee”** means any of the following:
  - (a) A department to which a donor has applied to donate qualified property.
  - (b) A local government that has filed a joint application with a donor requesting approval of a donation to that local government.
  - (c) A designated nonprofit organization.
- **“Donor”** means a property owner that donates, or submits an application to donate, property pursuant to the program.
- **“Local Government”** means any city, county, city and county, or any district, as defined in Section 5902 or Division 26 (commencing with Section 35100) of the Public Resources Code, or any joint powers authority made up of one or more of those entities or those entities and departments. If bond funds are used to acquire property under the program, “local government” also includes any other local government entity eligible to receive bond funds pursuant to the relevant provision of the applicable bond act.
- **“Program”** means the Natural Heritage Preservation Tax Credit Program authorized by Public Resources Code Section 37000 *et seq.*
- **“Property”** means any real property, any perpetual interest in real property, including land, conservation easements and land containing water rights, as well as water rights.
- **“Secretary”** means the Secretary of the Resources Agency.



## **CHAPTER 2**

### **Program Requirements**

#### **CRITERIA FOR ACCEPTANCE**

##### **Eligible Donations**

To qualify for consideration, the donation of property must meet one or more of the following criteria (Public Resources Code Section 37015):

- (a) The property will help meet the goals of a habitat conservation plan, multispecies conservation plan, natural community conservation plan, or any other similar plan subsequently authorized by statute that is designed to benefit native species of plants, including, but not limited to, protecting forests, old growth trees, or oak woodlands, and animals and development.
- (b) The property will provide corridors or reserves for native plants and wildlife that will help improve the recovery possibilities of listed species and increase the chances that the species will recover sufficiently to be eligible to be removed from the list, or will help avoid the listing of species pursuant to the California Endangered Species Act (“CESA”) or the federal Endangered Species Act (“ESA”), or protect wetlands, waterfowl habitat, or river or stream corridors, or promote the biological viability of important California species.
- (c) The property interest is a perpetual conservation easement over agricultural land, or is a permanent contribution of agricultural land, that is threatened by development and is located in an unincorporated area certified by the secretary to be zoned for agricultural use by the county. Property accepted pursuant to this criterion shall be accepted pursuant to the California Farmland Conservancy Program Act established by Section 10200 *et seq.* of the Public Resources Code, pursuant to the agricultural conservation program of the Coastal Conservancy, or pursuant to the Bay Area Conservancy Program established pursuant to Section 31160 *et seq.* of the Public Resources Code.
- (d) (1) The property interest is a water right, or land with an associated water right, and the contribution of the property will help improve the chances of recovery of a listed species, will reduce the likelihood that any species of fish or other aquatic organism will be listed pursuant to CESA or ESA, will improve the protection of listed species, or will improve the viability and health of fish species of economic importance to the state. The donee receiving the water right, or land with an associated water right, shall ensure that it shall retain title to the water right, and that the water shall be used to fulfill the purposes for which the water right or land associated with a water right is being accepted.

- (2) Any contribution of a water right that includes a change in the point of diversion, place of use, or purpose of use may be made only if the proposed change will not injure any legal user of the water involved and is made in accordance with either Section 1700 *et seq.* or Section 1725 *et seq.* of the Water Code.
- (e) The property will be used as a park or open space or will augment public access to or enjoyment of existing regional or local park, beach, or open-space facilities, or will preserve archaeological resources.

In addition to meeting one or more of the above criteria, the proposed donation must satisfy the requirements for a “qualified contribution” pursuant to section 170 of the Internal Revenue Code. If only a portion (either an undivided fractional interest in the entire property or one or more discrete parcels) of a proposed conveyance of property satisfies the requirements for a “qualified contribution,” or if the property is sold for less than fair market value, only that portion, or the amount representing the difference between the amount paid by the donee and the fair market value, shall be eligible for the tax credit, to the extent permitted by Internal Revenue Code section 170 (h). The Board may segregate eligible and ineligible interests in property proposed to be contributed under the Tax Credit Act. The donor must not receive any other valuable consideration for the donation of property subject to the tax credit.

### **Ineligible Donations**

If a property does not meet at least one of the criteria in Public Resources Code Section 37015, or does not satisfy the requirements for a “qualified contribution” under section 170 of the Internal Revenue Code, the donation is ineligible and cannot be considered for approval. In addition, a donation will not qualify if it is proposed to satisfy a condition imposed upon the donor by any lease, permit, license, certificate, or other entitlement for use issued by one or more public agencies, including the mitigation of significant effects on the environment of a project pursuant to an approved environmental impact report or mitigated negative declaration required pursuant to the California Environmental Quality Act (Public Resources Code Section 37016).

Property on which there has been a release or threatened release of a hazardous material can be considered only if all of the requirements of Public Resources Code Section 37016 (a)(2) are met. The application must disclose any known or suspected environmental conditions associated with the property.

### **Eligible Donees**

Qualified property may be donated to any department, board or conservancy that is within the Resources Agency and authorized to hold title to land, or to the Resources Agency itself. Eligible recipients also include local government agencies such as park and open space or other districts, cities, counties, cities and counties, and joint powers authorities made up of one or more of those entities or those entities and departments. If bond funds are used to reimburse the General Fund, the local government must also be eligible to receive bond funds pursuant to the relevant provision of the applicable bond act.

A nonprofit organization is considered an eligible donee if it meets the following qualifications: (1) the nonprofit is a tax-exempt organization qualified under Internal Revenue Code section 501 (c)(3), (2) it has as a principal purpose the conservation of land and water resources, (3) the organization is designated by a department or local government to accept property under the Tax Credit Act in lieu of the department or local government, and (4) it has experience in land conservation. Again, if bond funds are used to reimburse the General Fund, the nonprofit donee must also be eligible to receive bond funds pursuant to the relevant provision of the applicable bond act.

## **RESPONSIBILITIES OF DONOR AND DONEE**

### **The Application**

Applications are to be submitted first to the donee to which the donor proposes to contribute the property. Each donee must evaluate applications submitted to it. Applications that the donee submits to the Board for consideration must include a plan that sets forth the donee's priorities for acquisition of property that qualifies under the Tax Credit Program. Consistent with the program criteria, each donee may use its own priority lists and procedures in determining which properties or types of properties shall be given priority.

The Application Package (**Appendix A**) contains four parts that must be completed by the donor and/or the donee. In addition, further information may be requested by WCB as reasonably necessary to evaluate the proposed donation. A complete application must include all of the following:

#### **Part I**

Project and Bond Information  
Donor Disclosure Authorization  
Donor Information

#### **Part II**

Criteria for Acceptance of Property

#### **Part III**

Donor and Donee Certifications

#### **Part IV**

Bond Fund Certifications  
Certification of Availability of Funds  
Required Attachments

## Public Hearing

A public hearing must be held in the local community before property is acquired under the Tax Credit Act, Public Resources Code Section 37012 (d). When the Board has received both a complete application package for a proposed donation that appears to qualify for acceptance under the Tax Credit Program and a Department of General Services (DGS) approved fair market value for the donation, Board staff will notify the project proponent that a public hearing should be held. For public hearings that the Board is required to conduct (i.e., where the donee is a designated nonprofit organization) the Board will seek staff services from the department that submitted the application, as provided in Public Resources Code Section 37005. The public hearing must take place before the proposed donation will be presented to the Board for consideration of approval of a tax credit.

To avoid conducting a public hearing on a proposed donation that may not qualify for acceptance under the Tax Credit Program or for which funding may be unavailable, the public hearing should be held only after the application has been submitted to the Board and the project proponent has received notice to proceed with the public hearing from Board staff. Whenever bond funds will be used to reimburse the General Fund for approved tax credits, it is critical the potential nonprofit organization coordinates with both the funding department or local government and the Board regarding the public hearing.

## Hearing Notice

Notice of the public hearing must be provided to the following entities: County Board of Supervisors of the affected county; landowners adjacent to the property proposed for contribution; affected water districts; local municipalities; and others whom the donee or the Board determines to be interested in or affected by the donation. Hearing notices must also be provided to the Board. The hearing should be held at an appropriate public meeting facility such as a county court house or the chambers of the county board of supervisors.

The hearing notice shall be given and also made available on the internet at least 10 days in advance of the public hearing, and shall contain at least the following information:

- (1) Date, time, place, and location of hearing.
- (2) A specific agenda for the hearing, containing a brief description of the items to be discussed.
- (3) The name, address and telephone number of a contact person who can provide further information prior to the hearing.
- (4) The address of the internet site where the notice is available.
- (5) Information regarding how, to whom and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public hearing.

Upon request of a person with a disability, the notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12132), and the federal rules and regulations adopted in implementation thereof.

## **Conduct of Public Hearing**

To assure the public hearing provides meaningful information, each hearing shall provide at least the following information:

- ✓ Identification of the donor, donee and any department or local government proposing to expend bond funds pursuant to the Tax Credit Act.
- ✓ Description of the proposed donation, including how the property meets the criteria and qualifies for acceptance under the Tax Credit Program.
- ✓ Location of the proposed donation, including maps that show the property boundaries and adjacent properties.
- ✓ If the proposed donation is a water right, or land with an associated water right, information with respect to how the water right will be used, how it meets the criteria and qualifies for acceptance under the program, any change in the point of diversion, place of use, or purpose of use, and any impact upon any legal user of the water.
- ✓ DGS approved, appraised fair market value of the property proposed for acceptance and amount of tax credit requested.
- ✓ Identification of impacts the donation may have on adjacent landowners.
- ✓ Actions taken or proposed to minimize any impact on adjacent landowners, including identification of any setbacks or buffers and how the size of each setback or buffer was established.
- ✓ Whether or not the donee will allow public access to the property, and if so, how public access will be managed.
- ✓ Any known or suspected environmental conditions associated with the property, including any release or threatened release of a hazardous material on the property.
- ✓ An opportunity for members of the public to comment on the proposed donation.

The donee shall record the hearing, prepare minutes and provide this information to the Board at least five weeks prior to the scheduled Board meeting.

## **Public Access**

The Tax Credit Act requires the donee to allow public access to any donated property to the extent that public access is consistent with the purposes for which the property was accepted. However, before providing public access, the donee must develop a plan. The plan shall address measures that will minimize the impact of public access on adjacent landowners and avoid any infringement on the customary husbandry practices on adjacent or nearby agricultural or timber operations. In addition, the plan shall address any necessary setback or buffer area(s). A conservation easement over privately owned lands may provide for public access, however, the Tax Credit Act does not require access to privately owned lands over which a conservation easement is contributed pursuant to the Tax Credit Program.

### **Setbacks and Buffers**

A donee accepting property under the Tax Credit Program is required to own and maintain a setback or buffer that may be necessary for the use of the donated property, in order to avoid infringement on the customary husbandry practices on adjacent or nearby agricultural or timber operations.

### **Disclosure Authorization**

The Application Package (Appendix A), includes a “Disclosure Authorization” required by Public Resources Code Section 37034 (a)(3). The Disclosure Authorization **MUST BE SIGNED BY EACH DONOR**. No application can be accepted without the required Disclosure Authorization(s).

### **Donor and Donee Certifications**

The Application Package also contains certifications that are required from the donor and the donee. The certifications pertain to several requirements of the Tax Credit Act.

### **Bond Fund Certifications**

Certifications are required on the part of any department or local government that proposes to expend bond funds pursuant to the Tax Credit Program. The required Bond Fund Certifications are contained in the Application Package.

### **Appraisal**

The application must contain an appraisal of the fair market value of the property proposed for donation meeting the requirements of Internal Revenue Code section 170. Before a donation of qualified property is presented to the Board for final approval, appraisal(s) must be reviewed and approved by the DGS.

To facilitate the development and ultimate approval of the appraisal and determination of the fair market value, all appraisals must be prepared in conformance with the Uniform Standards of Professional Appraisal Practice (USPAP). In addition, the application must contain the appraiser’s certification described in the lists of Required Attachments in the Application Package.

If the application is complete and appears to qualify for acceptance under the program, Board staff will notify the state agency to submit the appraisal to the DGS for review. Once the DGS review is complete, the department must send Board staff a copy of the DGS Appraisal Review Memorandum. The project will be scheduled for full Board review and consideration following receipt of the DGS approved fair market value of the donation and completion of the public hearing.

### **Contributions for Transaction Costs**

A department may accept contributions of money from any taxpayer to pay or reimburse the costs of appraisal, escrow, title and other transaction costs associated with the contribution of any particular property or set of properties, including any environmental site assessments the department requires, and the costs of preparing any necessary management plan for the property or set of properties.

## **CHAPTER 3**

### **Long-Term Obligations**

#### **Use of Donated Property**

Property approved for acceptance under the Tax Credit Program must be used for the conservation purposes for which it was contributed. If any unauthorized use is made of property after it is donated to a nonprofit organization or local governmental entity, the donee must seek to terminate the unauthorized use and restore the conservation benefits for which the property was donated. If the Board determines that an unauthorized use has not been terminated and the conservation benefits fully restored within a reasonable time, the fee title owner must pay to the state the greater of the following:

1. The fair market value of the property based on appraisals when accepted by the Board.
2. The fair market value of the property based on appraisals at the time of and based on the unauthorized use of the property.

The department that is the donee or the Board may seek injunctive relief to prevent the unauthorized use of the property, or may assume ownership or management of the property to assure that it is used in the manner originally authorized.

#### **Monitoring Requirements**

To assure the long-term conservation purposes are maintained, the Board will conduct an annual review of all property accepted by nonprofit organizations and local governmental entities pursuant to the Tax Credit Act. The purpose of the review will be to ensure the use of the property conforms to the purposes for which it was accepted into the Tax Credit Program.

#### **Property Transfers**

If any property approved for acceptance under the Tax Credit Program is later transferred by the donee, its use must be restricted by deed to the conservation purposes for which the property was contributed. Consistent with this requirement, any local government or nonprofit organization seeking to sell or transfer donated property must first obtain Board approval.

If the Board determines that the conservation purposes for which the property was contributed can no longer be achieved due to significantly changed circumstances beyond the control of the donee, the donee must use proceeds of the sale of the property to acquire property in California of equal or greater value and comparable resource value, as determined by the Board. Any replacement property must meet the criteria for acceptance under the Tax Credit Act.



To assure transfers are properly made, the conveyance instrument (i.e., deed, conservation easement) by which the donated property is acquired shall include substantially the following language:

***The property is being granted pursuant to the Natural Heritage Preservation Tax Credit Act of 2000 (California Public Resources Code Section 37000 et seq.). Any transfer of the property described herein (or any interest in such property) is subject to the prior written approval of the Wildlife Conservation Board. Requests for such approval should be mailed to the Executive Director, Wildlife Conservation Board, 1807 13<sup>th</sup> Street, Suite 103, Sacramento, California 95814.***

At the time it acquires the donation, the donee must record a Notice and Declaration with the local county recorder to notify third parties of the requirements surrounding the donation. When the property has been acquired and the Notice and Declaration is recorded and returned to the Board, an Acknowledgment of Donation will be sent to the donor and the donee confirming the approval of the donation pursuant to the program and the award of the tax credit.

Samples of a Grant Deed containing the language required above, a Notice and Declaration and an Acknowledgment of Donation are provided in **Appendix B**.

## **Chapter 4**

### **Administrative Process**

#### **Developing Partnerships**

While the Natural Heritage Preservation Tax Credit Act is designed to encourage private landowners to donate qualified properties for conservation purposes, the Tax Credit Program is not designed to accept applications directly from private landowners. As such, interested landowners must coordinate the preparation of the Application Package with an eligible donee.

The donee is encouraged to submit an Application Package to the Wildlife Conservation Board for consideration if (a) a proposed donation compliments the mission of the donee; (b) the donee is interested in accepting, or designating a qualified entity to accept, the donation and (c) the donee is willing and able to reimburse the General Fund for the approved tax credit using eligible bond funds.

#### **Submitting Applications**

Applications are accepted on a year-round basis. Applications that comply with the program requirements and eligibility criteria for qualified donations can be scheduled for Board consideration only after completion of the required local public hearing and approval of the appraisal by DGS as required by the Tax Credit Act. The Board generally meets four times per year, in February, May, August and November. Board staff will notify project proponents of the date a proposal is scheduled for consideration by the Board.

Donees should mail completed applications to the Executive Director, Wildlife Conservation Board located at 1807 13<sup>th</sup> Street, Suite 103, Sacramento, California 95814. Donees are encouraged to call (916) 445-8448, with any questions prior to completing the application package. Additional information regarding the Tax Credit Program is available on the Board's website at [www.wcb.ca.gov](http://www.wcb.ca.gov).

#### **Board Review and Notification Process**

After the Board considers the requested donation, Board staff will notify the donee and donor of the Board's decision.

For projects approved by the Board, the notification of Board approval will include a Funding Certification and Encumbrance Document to be completed and signed by the department that will be reimbursing the General Fund for the tax credit. Upon receipt of the signed Funding Certification and Encumbrance Document, Board staff will provide this information to the State Controller. The State Controller will then establish the bond appropriation to be available without regard to fiscal year. Consistent with the provisions of the Tax Credit Act, the Board will also notify the Joint Legislative Budget Committee and the Franchise Tax Board ("FTB") of approved donations and the award of related tax credits.

Following receipt of a tax return claiming a tax credit, the FTB will notify the Board, which in turn will notify the department responsible to reimburse the General Fund. This notification will request the department to transfer the encumbered bond funds to the Reimbursement Account. The department will then have 60 days from receipt of the notification to complete the transfer of bond funds to the Reimbursement Account.

Taxpayers may claim tax credits until the approved tax credit amount has been claimed, or for a total of nine years, whichever comes first. Upon receiving notification that a taxpayer has claimed a tax credit, the Board will provide information regarding the claim to the State Controller and State Treasurer. However, it is the responsibility of the donor and donee to comply with all laws and regulations of the Franchise Tax Board and the Internal Revenue Service applicable to the donor's tax credit claim.